

REMARKS

REJECTIONS UNDER 35 U.S.C. § 112

Claims 1, 12, 18, and 20 were rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees with the rejection of these claims on this basis. The Examiner states, “The element of ‘a metropolitan area network’ does not serve a functional purpose.” Having a “functional purpose” is not a factor in determining definiteness under Section 112, second paragraph. “The essential inquiry pertaining to this requirement [under Section 112, second paragraph] is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity.” See MPEP § 2173. One of ordinary skill in the art would recognize the term “metropolitan area network” as circumscribing a particular subject matter with a reasonable degree of clarity and particularity. Applicant submits claims 1, 12, 18, and 20 meet the requirements of 35 U.S.C. § 112, second paragraph as outlined in MPEP § 2173 and requests that the Examiner withdraw rejection of these claims on this basis.

REJECTIONS UNDER 35 U.S.C. § 103

The Office action states that claims 1-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,035,105 issued to McCloghrie et al. (*McCloghrie*) in view of U.S. Patent No. 6,226,771 issued to Hilla et al. (*Hilla*). However, Examiner makes no mention of claim 21 in this section of the rejection; claim 21 was rejected separately in a subsequent section of the Office action. Thus, according to Applicant’s interpretation of the rejection, the

Examiner intended this rejection to apply only to claims 1-20 and 22-24 and Applicant will proceed accordingly. Applicant submits that claims 1-20 and 22-24 are not rendered obvious by *McCloghrie* in view of *Hilla* for at least the reasons set forth below.

Independent claim 1 recites, in part, the following:

a metropolitan area network (MAN);
a first virtual local area network (VLAN);
a second VLAN, wherein **the second VLAN subsumes the first VLAN**;
a first switch coupled to the first and second VLANs...; and
a second switch coupled to the MAN and the second VLAN, the second switch to receive from the second VLAN the modified data packet and to forward the modified data packet to the MAN.

Thus, Applicant claims a first VLAN and a second VLAN, wherein the second VLAN subsumes the first VLAN. Independent claims 12, 18, and 20 similarly recite that the second VLAN subsumes the first VLAN.

McCloghrie is cited as teaching the limitations of claim 1, except that *McCloghrie* does not teach or disclose a MAN and that a modified data packet is forwarded to the MAN. Applicant agrees that *McCloghrie* does not disclose a MAN and that a modified data packet is forwarded to the MAN. Furthermore, Applicant respectfully submits that *McCloghrie* does not teach that **a second VLAN subsumes a first VLAN**, as claimed by Applicant. FIG. 1 of *McCloghrie* is described as a diagram of a network having multiple VLANs. Col. 2, line 32. A network having multiple VLANs **does not** read on the limitation of claim 1 reciting that **the second VLAN subsumes the first VLAN**. Therefore, Applicant submits that claims 1, 12, 18, and 20 are not obvious in view of *McCloghrie*.

Hilla is cited as teaching a MAN that is coupled to a switch. Whether or not *Hilla* actually teaches the limitations cited in the Office action, *Hilla* does not teach or disclose that **a second VLAN subsumes a first VLAN**, as claimed by Applicant. Therefore, *Hilla* does not

cure the deficiencies of *McCloghrie*. Thus, Applicant respectfully submits claims 1, 12, 18, and 20 are not rendered obvious by *McCloghrie* in view of *Hilla*.

Claims 2-11 depend from claim 1. Claims 13-17 depend from claim 12. Claim 19 depends from claim 18. Claims 22-24 depend from claim 20. Given that dependent claims necessarily include the limitations of the claims from which they depend, Applicant submits that claims 2-11, 13-17, 19, and 22-24 are not rendered obvious by *McCloghrie* in view of *Hilla* for at least the reasons set forth above.

Claim 21 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *McCloghrie* and *Hilla*, and further in view of U.S. Patent No. 5,968,126 issued to Ekstrom et al. (*Ekstrom*). Applicant submits that claim 21 is not rendered obvious by *McCloghrie* and *Hilla* and further in view of *Ekstrom* for at least the reasons set forth below.

Claim 21 depends from claim 20 and therefore includes the limitations of claim 20. As discussed above, *McCloghrie* and *Hilla* do not teach that **a second VLAN subsumes a first VLAN**. *Ekstrom* is cited as teaching wherein the assigner identifies a VLAN based on contents of the data packet's source Internet Protocol (IP) address. Whether or not *Ekstrom* teaches the limitation cited in the Office action, *Ekstrom* does not teach or disclose that **a second VLAN subsumes a first VLAN**, as claimed in claim 20. Therefore, *Ekstrom* fails to cure the deficiencies of *McCloghrie* and *Hilla*. Thus, Applicant submits that claim 21 is not obvious in view of *McCloghrie* and *Hilla* and further in view of *Ekstrom*.

CONCLUSION

For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, claims 1-24 are in condition for allowance and such action is earnestly

solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Applicants have included a copy of all claims in the attached index for the Examiner's convenience.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: 10/28/14



Gregory D Caldwell
Attorney for Applicant
Reg. No. 39,926

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(503) 439-8778